

These laws, as written, pick winners and losers among law firms who represent injury victims. They say to the mass advertising lawyers, the 1-800-CALLWHATEVER, you can continue to advertise, solicit clients and sign-up clients well within 30-days of an accident date and no longer have to compete with the attorneys who advertise by mail and consequently, charge a lower fee. The winners are the mass advertising attorneys. The losers are the clients who will have no alternative but to pay full fee and the law firms who would have been willing to serve those clients for a reduced fee.

The trial lawyers now suggest that the 30-day waiting period should serve as a cooling off period. If a trial lawyer receives a phone call from a client within the first week or two after the crash, I'm pretty sure that lawyer will not counsel a client to wait a couple more weeks before making a decision. MCL 750.410 already makes solicitation a crime. It already criminalizes those who would participate in indirect solicitation. There has been no groundswell of outrage with regard to the conduct these bills seek to prevent. On the other hand, dozens of former and current clients have written to you and to their Senators and Representatives in support of receiving direct mail letters. If the true intent of this legislation is to prevent the distribution of misinformation to third parties, make everyone responsible for the consequences if information is leaked to a third party, including lawyers. But don't throw out the baby with the bath water by outlawing direct mail advertising which is cost efficient, effective, and serves both the business community and consumers. It is far more professional to send a letter outlining my qualifications to a prospective client than it is to put my face on a billboard or come up with a catchy telephone number. Clients call me because they are impressed with my credentials, not because they remember a jingle they heard on

television. If the integrity of the profession is the issue, advertising via direct mail is not the problem. Indeed, it provides far better information upon which to make an informed decision than a billboard or a tv ad.

Comments to Michigan Rule of Professional Conduct 7.3, which permits direct mail advertising, follows the United States Supreme Court reasoning in Shapero and describes the benefits of direct mail advertising.

In 2011, the Michigan Supreme Court considered the imposition of a 30-day waiting period on direct mail advertising. After inviting public comment and conducting hearings, the Supreme Court ultimately refused to adopt a 30-day waiting period. Justice Markman got it exactly right when he indicated that if a 30-day waiting period were enacted . . .

. . . all that we are doing is placing the small law firm at an increasing economic disadvantage to the large law firm in terms of client solicitation. I see little point to the new rule, and would not adopt it.

No plaintiff personal injury attorney in the State of Michigan wants to compete with a law firm that only charges 22% as an attorney fee. When the Supreme Court says that the maximum a plaintiff's lawyer can charge is 33 1/3% and when virtually every firm in the state charges 33 1/3%, it is understandable that plaintiff trial lawyers would support any legislation that would prevent a law firm that charges 22% from staying in business. That is the effect of this legislation. We are the only firm that charges 22% and the only reason we have been able to reduce our fee is that we can cost efficiently attract potential clients through direct mail advertising, something that has been permitted and deemed desirable by both the United States Supreme Court and the Michigan Supreme Court. A 30-day "cooling off period" is a smoke screen

since virtually all potential clients find lawyers within the first 30 days of an accident.

If this legislation passes, thousands of future injury victims will be deprived of a choice that will affect their lifelong financial well being. This is not about me or my firm - it's about all those future injury victims who will be victimized twice . . . once by the fates that conspired to injure them and the second by trial lawyers who sought to protect their financial turf at the expense of their clients.

Please vote NO on these bills or amend them to permit the continuation of attorney direct mail advertising. The proposed amendment is simple:

These provisions do not apply to attorneys whose activities comply with MCL 750.410 and with Michigan Rules of Professional Conduct 7.3.

MCLS § 750.410

This document is current through 2012 P.A. 625

Michigan Statutes Annotated > Chapter 750 > Act 328 > Chapter LX

§ 750.410. Solicitation of personal injury claims; validity of contracts; furnishing, selling, or buying information as to identity or treatment of patient.

Sec. 410.

- (1) A person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or any of the officers, agents, servants, employees, or members of any such person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or of any division, bureau, or committee of that association or organization, either incorporated or unincorporated, who shall directly or indirectly, individually or by agent, servant, employee, or member, solicit a person injured as the result of an accident, his or her administrator, executor, heirs, or assigns, his or her guardian, or members of the family of the injured person, for the purpose of representing that person in making a claim for damages or prosecuting an action or causes of action arising out of a personal injury claim against any other person, firm, or corporation, or to employ counsel for the purpose of that solicitation, is guilty of a misdemeanor, and shall upon conviction thereof, if a natural person, be punished by a fine not to exceed \$ 750.00 or by imprisonment for not more than 6 months, or both. The same penalties apply upon conviction to a member of a copartnership, or an officer or agent of a corporation, association, or other organization, or an officer or agent, who shall consent to, participate in, or aid or abet a violation of this section upon the part of the copartnership of which he or she is a member, or of the corporation, association, or organization of which he or she is such an officer or agent. A contract entered into as a result of such a solicitation is void. This subsection does not apply to an unsolicited contract entered into by a person, firm, or corporation with an attorney duly admitted to practice law in this state.
- (2) Except as otherwise provided by law, administrative rule, or valid legal process, any person, firm or corporation who, for any consideration and without the prior written permission of a patient or his or her personal representative, furnishes, receives, buys, offers to buy, sells, or offers to sell, directly or indirectly, the identity of the patient or any information concerning the treatment of the patient, including, but not limited to, information contained in the files or records of a health care facility, health care provider, or insurance company, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$ 750.00, or both.

History

Pub Acts 1931, No. 328, Ch. LX, § 410, eff September 18, 1931; amended by Pub Acts 1947, No. 123, eff October 11, 1947; 1975, No. 125, imd eff July 1, 1975; 2002, No. 672, eff March 31, 2003 (see Mich. Const. note below).

Annotations

Notes

Prior codification:

Pub Acts 1925, No. 280, §§ 1, 2, eff August 27, 1925; CL 1929, §§ 13607, 13608.

MSA § 28.642

Editor's notes:

Michigan Constitution of 1963, Art. IV, § 27, provides:

"No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."

Effect of amendment notes:

The 2002 amendment in subsection (1), inserted a comma following : "copartnership, association" in two instances, "bureau", "executor, heirs" and "corporation, association", inserted "or her" in two instances following "his" and "or she" in two instances following "he", following "not to exceed" substituted "\$ 750.00" for "\$ 500.00", following "imprisonment for" substituted "not more than" for "a term not to exceed", following "same penalties" deleted "shall", following "This subsection" substituted "does" for "shall", preceding "an unsolicited" substituted "apply to" for "affect"; in subsection (2), following "patient or his" inserted "or her", following "including", "but not limited to" and "care provider" inserted a comma, following "6 months or" deleted "by" and following "not more than" substituted "\$ 750.00" for "\$ 500.00".

Case Notes

1. Constitutionality.
2. Purpose and scope of act.
3. What constitutes solicitation.
4. Validity of solicited contract.
5. Recovery for services rendered under solicited contract.

CASE NOTES**1. Constitutionality.**

Overbreadth challenge to statutory language prohibiting "directly or indirectly soliciting" personal injury claims must be rejected because overbreadth doctrine has no application to commercial speech. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statement of exceptions to statute's otherwise blanket prohibition is no intrusion on power of legislature to engraft exceptions to broad prohibition when no violence is done to legislature's central intent and when without such exceptions statute must fall. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

While in-person solicitation for pecuniary gain may be prohibited as prophylactic measure in circumstances in which there is risk of overreaching, undue influence, or other evils, measure cannot be so broad as to prohibit all lawyer solicitation for remuneration. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

While equal protection analysis requires identification of state interest sought to be advanced by challenged statute, where court decides that there are one or more legitimate state interests which would be furthered by statute and that challenged classification is sufficiently related to furtherance of each interest, there is no need to particularize which interest was in forefront of legislative decision. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Although First Amendment protection has been extended to some forms of solicitation by attorneys, in-person solicitation in commercial context is not accorded protection as fundamental right and hence does not trigger strict scrutiny of statute regulating such conduct when it has been challenged on equal protection grounds. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statute imposing criminal penalties for solicitation of personal injury claims should be tested against rational relationship standard applicable to economic legislation generally and inquiry is whether classification challenged is rationally related to legitimate state interest. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statute imposing criminal penalties for solicitation of personal injury claims is not unconstitutional under equal protection standard of rational relationship since classification is rationally related to state interests in protecting consumers, regulating commercial transactions and maintaining standards among members of licensed professions. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

This section is constitutional. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

All presumptions were that former act was regularly enacted in full compliance with all provisions for its adoption and in conformity with all constitutional requirements, and to hold it void the

repugnancy must clearly appear. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

The marked difference as to measure of damages and rules of proof between claims for personal injuries and injury to personal property furnishes a reasonable basis of distinction between them in prohibiting solicitation of the one kind of claim and not the other and even between the kinds of persons who may engage in soliciting them for collection. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

This section is a proper police regulation within legislative power. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

This section, prohibiting solicitation of personal injury claims would be held not to be unconstitutional as allegedly inherently and impermissibly vague where it afforded adequate notice to objectant lawyers of hard-core ambulance chasing proscribed therein. Woll v Kelley (1978) 80 Mich App 721, 265 NW2d 23, app gr, in part 403 Mich 815 (1978).

This section, prohibiting solicitation of personal injury claims, as aimed at practice of ambulance chasing motivated by possibility of substantial jury verdicts for pain and suffering in personal injury actions, would be held not to be violative of equal protection of laws or due process merely because it did not include property damage claims within prohibition, such latter claims not involving abuse to which statute was directed. Woll v Kelley (1978) 80 Mich App 721, 265 NW2d 23, app gr, in part 403 Mich 815 (1978).

This section, prohibiting solicitation of personal injury claims, as prohibiting commercial speech and conduct in nature of ambulance chasing, would be held not to have prohibited type of constitutionally protected speech as would render it unconstitutional for facial overbreadth. Woll v Kelley (1978) 80 Mich App 721, 265 NW2d 23, app gr, in part 403 Mich 815 (1978).

This section, proscribing solicitation of personal injury claims, would be held not to have infringed on constitutionally protected First Amendment rights as applied to alleged hard-core ambulance chasing allegedly practiced by objectant attorneys. Woll v Kelley (1978) 80 Mich App 721, 265 NW2d 23, app gr, in part 403 Mich 815 (1978).

2. Purpose and scope of act.

Statute prohibiting solicitation of personal injury claims applies only to solicitations done primarily to advance pecuniary interest of lawyer who solicits or in whose interest solicitation is committed. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Criminal statute must provide fair warning of conduct proscribed so that persons affected can con-

form their conduct to statutory requirement. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statute prohibiting solicitation of personal injury claims does not apply to truthful advertising by lawyer. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statutes prohibiting solicitation of personal injury claims is directed as well to solicitation of worker's compensation claims because such claims are within policies of protection of injured persons against importuning, of defendants against those who would drum up claims and of judicial system from being overloaded with claims which otherwise would not be presented. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Statute prohibiting solicitation of personal injury claims provides fair notice of statutes proscription of type of solicitation legislature may bar under United States Supreme Court decisions. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Legislature could properly conclude that added deterrent was necessary to discourage solicitation of personal injury claims since in personal injury area presence of potential for indeterminate gain, high volume of cases making invalidation of any single contract less important, absence of fixed dollar value which might encourage clients to police the quality of representation, fact that most injured persons are taken to hospitals and identified and thus are more readily solicited than general civil litigants, and that personal injury claimants generally do not have retained legal counsel, make sanction of invalidation of solicited contract in personal injury area less efficacious. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Limiting construction making statute prohibiting solicitation of personal injury claims expressly inapplicable to certain protected activities is necessary to prevent violation of due process right akin to that which protects one from application of law so indefinite that it confers unstructured and unlimited discretion on trier of fact to determine whether offense has been committed. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disap-

proved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

"Claim for damages" under solicitation statute can mean either claim in tort or for workers' compensation since injured worker who has suffered specific loss, requires medical attention or is disabled from earning wages has suffered "damages" no less than if Workers' Compensation Act had not been enacted and his claim for recovery could only be asserted in a court of law and since although worker seeks compensation rather than money judgment, he asserts claim for damages. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

Fairness requires that construction that solicitation of worker's compensation claims is included in statute providing criminal penalties for solicitation of personal injury claims be given prospective effect only, since different construction could be placed upon statute. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

The purpose of this section is to discourage the practice commonly known as "ambulance chasing" and the recognized evils growing out of it. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

No class distinction as to persons is made by this section and it applies to any person who solicits such contracts and provides no different degree of punishment for anyone. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

This section does not deprive any person of the right to engage in the business of collecting claims nor prohibit him from making unsolicited contracts with any person as the result of an accident but only forbids him from running after and soliciting the claims of injured persons and is a proper exercise of the police power. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

The proviso contained in this section should be construed as intended to exclude possible misinterpretation of the scope of the enactment and to relate only to such unsolicited contracts as attorneys are authorized by previous legislation to make with clients. Kelley v. Boyne, 239 Mich 204, 214 NW 316, 1927 Mich LEXIS 745 (1927), disapproved, Eanes v. Detroit, 279 Mich 531, 272 NW 896, 1937 Mich LEXIS 784 (1937), disapproved, In re Logan's Estate, 302 Mich 442, 4 NW2d 719, 1942 Mich LEXIS 484 (1942), disapproved, Scholle v. Hare, 360 Mich 1, 104 NW2d 63, 1960 Mich LEXIS 364 (1960).

The state may, as a prophylactic measure, prohibit in-person solicitation of clients by lawyers for pecuniary gain where there is a risk of overreaching, undue influence, or other evils; however, the prophylactic measure cannot be so broad as to prohibit all solicitation by lawyers for remuneration. Woll v. Kelley, 116 Mich App 791, 323 NW2d 560, 1982 Mich App LEXIS 3241 (1982).

The Michigan solicitation statute should be construed to prohibit all in-person solicitation by an attorney substantially motivated by pecuniary gain; this construction limits application of the statute to situations where the attorney seeks to advance his own economic self-interest. Woll v. Kelley, 116 Mich App 791, 323 NW2d 560, 1982 Mich App LEXIS 3241 (1982).

The solicitation statute does not apply to truthful advertising by a lawyer. Woll v. Kelley, 116 Mich App 791, 323 NW2d 560, 1982 Mich App LEXIS 3241 (1982).

3. What constitutes solicitation.

Since workers' compensation statute covers accidental injury, language of solicitation statute in terms includes solicitation of workers' compensation claims. Woll v. Kelley, 409 Mich 500, 297 NW2d 578, 1980 Mich LEXIS 249 (1980), modified, Woll v. Attorney Gen., 300 NW2d 171 (Mich. 1980), disapproved, Department of Social Services v. Emmanuel Baptist Preschool, 434 Mich 380, 455 NW2d 1, 1990 Mich LEXIS 810 (1990), disapproved, Michigan State AFL-CIO v. Civil Serv. Comm'n, 455 Mich 720, 566 NW2d 258, 1997 Mich LEXIS 2185 (1997).

The offense of solicitation of claims for damages for personal injuries does not require actual execution of an agreement, capacity of the injured party to contract, or legal control of the injured party by the person solicited. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

Solicitation of the person who in fact had the control of the person and cause of action of an infant who had suffered personal injuries was at least indirect solicitation of the person injured within the meaning of this section. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

The word "indirect" used in this section is not to be confined to intentional subterfuge but is to be given the fair meaning of including any circuitous means to reach the statutory person and obtain control of the claim. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

While an attorney may, in good faith, borrow money from his client, such act is subjected to close scrutiny and he assumes the burden of establishing fair and open dealing uninfluenced by the confidential relation. Attorney Gen. v. Lane, 259 Mich 283, 243 NW 6, 1932 Mich LEXIS 965 (1932), cert. denied, 287 US 654, 53 S Ct 115, 77 L Ed 565, 1932 US LEXIS 358 (1932).

A letter normally does not sway or influence its reader to such a degree that his will is dominated by the sender; for this reason, mass mailings by attorneys to clients, in which the attorneys' services are promoted, should not be prohibited by the Michigan solicitation statute; telephone calls, on the other hand, may be construed as prohibited solicitation because there may be pressure to accept an offer immediately, thus depriving an individual of an opportunity to re-

flect and make a reasoned choice. Woll v. Kelley, 116 Mich App 791, 323 NW2d 560, 1982 Mich App LEXIS 3241 (1982).

4. Validity of solicited contract.

A contract secured by a layman, through solicitation by his agent of a relative having custody of an injured child, to represent the infant in securing damages for the injury, was void under this section. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

5. Recovery for services rendered under solicited contract.

A judgment of the court will not be given in aid or encouragement of unprofessional conduct infringing the integrity of judicial proceedings, and the fact that the act of an attorney in participating in the solicitation of a claim for personal injuries may justify disbarment or contempt proceedings will not prevent the court from denying the right of the attorney to fees for his services. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

Services of an attorney in a personal injury case under a contract made through a middleman and wholly void because it was solicited in violation of this section cannot be recovered on quantum meruit. Hightower v. Detroit Edison Co., 262 Mich 1, 247 NW 97, 1933 Mich LEXIS 827 (1933), disapproved, Grand Rapids Bar Ass'n v. Denkema, 290 Mich 56, 287 NW 377, 1939 Mich LEXIS 677 (1939), disapproved, People v. Krol, 304 Mich 623, 8 NW2d 662, 1943 Mich LEXIS 484 (1943).

| |
|--|
| Research References & Practice Aids |
|--|

Cross references:

Solicitation of employment by attorney, § 600.919

LexisNexis(R) Michigan analytical references:

Michigan Law and Practice, Attorneys and Counselors § 48

Michigan Law and Practice, Criminal Law and Procedure § 1321

ALR notes:

Physician's tort liability for unauthorized disclosure of confidential information about patient, 48 ALR4th 668

Michigan Digest references:

Attorneys and Counselors § 1

Constitutional Law §§ 116, 124, 211, 258, 263, 276, 314, 327, 329

Criminal Law and Procedure §§ 3, 99

Statutes §§ 128, 149

MICHIGAN COMPILED LAWS SERVICE

Copyright © 2013 Matthew Bender & Company, Inc. a member of the LexisNexis Group. All rights reserved.

- (i) pay the reasonable cost of advertising or communication permitted by this rule;
- (ii) participate in, and pay the usual charges of, a not-for-profit lawyer referral service or other legal service organization that satisfies the requirements of Rule 6.3(b); and
- (iii) pay for a law practice in accordance with Rule 1.17.

Comment: To assist the public in obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.

Neither this rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in a class action.

RECORD OF ADVERTISING

Paragraph (b) requires that a record of the content and use of advertising be kept in order to facilitate enforcement of these rules.

PAYING OTHERS TO RECOMMEND A LAWYER

A lawyer is allowed to pay for advertising permitted by these rules and for the purchase of a law practice in accordance with the provisions of MRPC 1.17, but otherwise is not permitted to pay another person for channeling professional work. But see MRPC 1.5(e). This restriction does not prevent an organization or person other than the lawyer from advertising or recommending the lawyer's services. Thus, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in not-for-profit lawyer referral programs and pay the usual fees charged by such programs. Paragraph (c) does not prohibit paying regular compensation to an assistant, such as a secretary, to prepare communications permitted by these rules.

Rule: 7.3 Direct Contact With Prospective Clients

(a) A lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient, but does not include letters addressed or advertising circulars distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful, nor does the term "solicit" include "sending truthful and nondeceptive letters to potential

clients known to face particular legal problems" as elucidated in *Shapero v Kentucky Bar Ass'n*, 486 US 466, 468; 108 S Ct 1916; 100 L Ed 2d 475 (1988).

(b) A lawyer shall not solicit professional employment from a prospective client by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited by paragraph (a), if:

- (1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) the solicitation involves coercion, duress or harassment.

Comment: There is a potential for abuse inherent in direct contact by a lawyer with a prospective client known to need legal services. These forms of contact between a lawyer and a prospective client subject the layperson to the private importuning of the trained advocate in a direct interpersonal encounter. The prospective client, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult to evaluate fully all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon being retained immediately. The situation is fraught with the possibility of undue influence, intimidation, and overreaching.

However, the United States Supreme Court has modified the traditional ban on written solicitation. *Shapero v Kentucky Bar Ass'n*, 486 US 466; 108 S Ct 1916; 100 L Ed 2d 475 (1988). Paragraph (a) of this rule is therefore modified to the extent required by the *Shapero* decision.

The potential for abuse inherent in direct solicitation of prospective clients justifies its partial prohibition, particularly since lawyer advertising and the communication permitted under these rules are alternative means of communicating necessary information to those who may be in need of legal services.

Advertising and permissible communication make it possible for a prospective client to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the prospective client to impermissible persuasion that may overwhelm the client's judgment.

The use of general advertising and communications permitted under *Shapero* to transmit information from lawyer to prospective client, rather than impermissible direct contact, will help to assure that the information flows cleanly as well as freely. Advertising is out in public view, thus subject to scrutiny by those who know the lawyer. The contents of advertisements and communications permitted under Rule 7.2 are permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false or misleading communications, in violation of Rule 7.1. The contents of some impermissible direct conversations between a lawyer and a prospective client can be disputed and are not subject to third-party scrutiny. Consequently they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

There is far less likelihood that a lawyer would engage in abusive practices against an individual with whom the lawyer has a prior family or professional relationship or

where the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Consequently, the general prohibition in Rule 7.3(a) is not applicable in those situations.

This rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for its members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of, and detail concerning, the plan or arrangement that the lawyer or the lawyer's firm is willing to offer. This form of communication is not directed to a specific prospective client known to need legal services related to a particular matter. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under these rules.

Rule: 7.4 Communication of Fields of Practice

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

Comment: This rule permits a lawyer to indicate areas of practice in communications about the lawyer's services, for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted to indicate that fact.

Rule: 7.5 Firm Names and Letterheads

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and it is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

Comment: A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity or by a trade name such as the "ABC Legal Clinic." Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that

Order

Michigan Supreme Court
Lansing, Michigan

May 19, 2011

ADM File No. 2002-24

Amendment of Rule 7.3
of the Michigan Rules of
Professional Conduct

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment is adopted, effective September 1, 2011.

[The present language is amended and reformatted. The changes are indicated below in underlining to indicate new text and in strikeover to indicate text that has been deleted.]

Rule 7.3 Direct Contact With Prospective Clients

- (a) Except as otherwise allowed under this rule, ~~a~~A lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for doing so is the lawyer's pecuniary gain.
- (b) Prohibited methods of communication. For purposes of this rule, ~~The~~ term "solicit" includes contact that is directed to a specific recipient:
- (1) in person, or
 - (2) by telephone or telegraph, or
 - (3) by letter or other writing, or
 - (4) by other communication, ~~directed to a specific recipient, but does not include~~
- (c) Allowable forms of communication. With the exception of those circumstances absolutely prohibited in subsection (d), for purposes of this rule, the term "solicit" does not include:

- (1) letters addressed or advertising circulars distributed generally to persons who are not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful, ~~nor does the term solicit include "sending or~~
 - (2) "[t]ruthful and nondeceptive letters to potential clients known to face particular legal problems," as elucidated in *Shapero v Kentucky Bar Ass'n*, 486 US 466 (1988). If the written solicitation concerns an action, or potential claim, that pertains to the person to whom a communication is directed, or a relative of such person, the communication shall not be transmitted less than 30 days after the injury, death, or accident occurred that has given rise to the action or potential claim.
 - (3) Every written communication from a lawyer described in subsections (1) and (2) shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any written communication, unless the lawyer has a family or prior professional relationship with the recipient. If a written communication is in the form of a self-mailing brochure, pamphlet, or postcard, the words "Advertising Material" shall appear on the address panel of the brochure, pamphlet, or postcard. The requirement to include the words "Advertising Material" shall apply regardless whether the written communication is transmitted by regular United States mail, private carrier, electronically, or in any other manner.
- (b)(d) A lawyer shall not solicit professional employment from a prospective client by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited by paragraph (a), if:
- (1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or
 - (2) the solicitation involves coercion, duress or harassment.

Staff Comment: MRPC 7.3 has been reformatted and describes the general prohibition regarding a lawyer's solicitation, and also describes the types of communication that are allowed, including a lawyer's general advertising, and a lawyer's targeted communications to possible clients who are facing legal problems (as protected by *Shapero v Kentucky Bar Ass'n*, 486 US 466 [1988]). The amendment of MRPC 7.3 requires that inclusion of the term "Advertising Material" applies only to written materials, including e-mailed communications, but not to television or radio

advertisements. The amendment also requires a 30-day period to pass before an attorney may contact a potential client after a death, injury, or accident.

The staff comment is not an authoritative construction by the Court.

MARILYN KELLY, J. (*dissenting*). I oppose the rule change because it is overbroad, ambiguous and likely to create confusion. I would adopt instead ABA Model Rule of Professional Conduct 7.3 which states, in relevant part,

Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any recorded electronic communications, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).

MARKMAN, J. (*dissenting*). Although I am not unsympathetic with the sentiments underlying the new rule, the more I reflect upon the rule, the more I am inclined to believe that it will simply add to the clutter of court rules that have already been sufficiently cluttered over the past decade, and without doing anything significant to address particular problems of lawyer advertising. Essentially, as in other states, the floodgates have been opened in Michigan concerning lawyer advertising, with fortunes now spent in this regard on television, radio, billboards, and 1-800-LAWSUIT telephone numbers. In the face of this transformation of the advertising environment, this Court now issues a new rule focused upon which of the four corners of a postcard soliciting clients the words "advertising material" must appear. The upshot is that those lawyers, and law firms, which engage in client solicitation by the hundreds of thousands will continue to engage in business as usual, while those lawyers, and law firms, which engage in client solicitation one person at a time will become more heavily regulated. Further, the latter group will be prohibited during a 30-day period from soliciting business from certain categories of potential clients, while the former group will be allowed to continue soliciting such business during the same period. For better or for worse, the United States Supreme Court has redefined the rules of the game for lawyer advertising, and I would not indulge in the illusion that by the measure this Court adopts today, we are doing anything of consequence to improve upon these rules. Instead, all that we are doing is placing the small law firm at an increasing economic disadvantage to the large law firm in terms of client solicitation. I see little point to the new rule, and would not adopt it.

HATHAWAY, J. (*dissenting*). I would decline to adopt.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 19, 2011

Corbin R. Davis

Clerk

Order

Michigan Supreme Court
Lansing, Michigan

July 19, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2002-24

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

Rescission of Amendment
of Rule 7.3 of the Michigan
Rules of Professional Conduct
and Proposed Amendment of
Rule 7.3 of the Michigan
Rules of Professional Conduct

On order of the Court, and in light of concern expressed regarding the amendments adopted in this file by order of the Court dated May 19, 2011, the order that entered on that date is rescinded, effective immediately, and the proposed language below is published for comment.

Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt/resources/administrative/ph.htm.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 7.3 Direct Contact With Prospective Clients

- (a) Except as otherwise allowed under this rule, ~~a~~A lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for doing so is the lawyer's pecuniary gain.
- (b) Prohibited methods of communication. For purposes of this rule, ~~The~~ term "solicit" includes contact that is directed to a specific recipient:
- (1) in person, or
 - (2) by telephone or telegraph, or

- (3) by letter or other writing, or
 - (4) by other communication, ~~directed to a specific recipient, but does not include~~
- (c) Allowable forms of communication. With the exception of those circumstances absolutely prohibited in subsection (d), for purposes of this rule, the term “solicit” does not include:
- (1) letters addressed or advertising circulars distributed generally to persons who are not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful, ~~nor does the term solicit include “sending or~~
 - (2) “[t]ruthful and nondeceptive letters to potential clients known to face particular legal problems,” as elucidated in *Shapero v Kentucky Bar Ass’n*, 486 US 466 (1988). If the written solicitation concerns an action, or potential claim, that pertains to the person to whom a communication is directed, or a relative of such person, the communication shall not be transmitted less than 30 days after the injury, death, or accident occurred that has given rise to the action or potential claim.
 - (3) Every written communication from a lawyer described in subsections (1) and (2) shall include the words “Advertising Material” on the outside envelope, if any, and at the beginning and ending of any written communication, unless the lawyer has a family or prior professional relationship with the recipient. If a written communication is in the form of a self-mailing brochure, pamphlet, or postcard, the words “Advertising Material” shall appear on the address panel of the brochure, pamphlet, or postcard. The requirement to include the words “Advertising Material” shall apply regardless whether the written communication is transmitted by regular United States mail, private carrier, electronically, or in any other manner.
- (b)(d) A lawyer shall not solicit professional employment from a prospective client by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited by paragraph (a), if:

- (1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) the solicitation involves coercion, duress or harassment.

Staff Comment: Under the proposed amendments, MRPC 7.3 would be reformatted and would describe the general prohibition regarding a lawyer's solicitation, and also would describe the types of communication that are allowed, including a lawyer's general advertising, and a lawyer's targeted communications to potential clients who are facing legal problems (as protected by *Shapero v Kentucky Bar Ass'n*, 486 US 466 [1988]). The proposed amendments of MRPC 7.3 would require that inclusion of the designation "Advertising Material" on general advertising and targeted communications applies only to written materials, including e-mailed communications, but not to television or radio advertisements. The amendment also requires a 30-day period to pass before an attorney may contact a potential client after a death, injury, or accident.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by November 1, 2011, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2002-24. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 19, 2011

Corbin R. Davis

Clerk